

Chapter 3

Duties of Public Utilities

54-3-1 Charges must be just; service adequate; rules reasonable.

All charges made, demanded or received by any public utility, or by any two or more public utilities, for any product or commodity furnished or to be furnished, or for any service rendered or to be rendered, shall be just and reasonable. Every unjust or unreasonable charge made, demanded or received for such product or commodity or service is hereby prohibited and declared unlawful. Every public utility shall furnish, provide and maintain such service, instrumentalities, equipment and facilities as will promote the safety, health, comfort and convenience of its patrons, employees and the public, and as will be in all respects adequate, efficient, just and reasonable. All rules and regulations made by a public utility affecting or pertaining to its charges or service to the public shall be just and reasonable. The scope of definition "just and reasonable" may include, but shall not be limited to, the cost of providing service to each category of customer, economic impact of charges on each category of customer, and on the well-being of the state of Utah; methods of reducing wide periodic variations in demand of such products, commodities or services, and means of encouraging conservation of resources and energy.

Amended by Chapter 206, 1977 General Session

54-3-2 Schedules of rates and classification -- Right of inspection -- Changes by commission.

- (1) Under the rules and regulations made by the commission, every public utility, shall file with the commission within the time and in the form as the commission may designate, and shall print and keep open to public inspection, schedules showing all rates, tolls, rentals, charges, and classifications collected or enforced, or to be collected or enforced, together with all rules, regulations, contracts, privileges, and facilities which in any manner affect or relate to rates, tolls, rentals, charges, classifications, or service.
- (2) Except for motor carriers exempted under federal law, nothing in this section shall prevent the commission from approving or fixing rates, tolls, rentals, or charges from time to time greater, or less, than those shown by the schedules.
- (3) The commission shall have power, in its discretion, to determine and prescribe, by order, changes in the form of the schedules referred to in this section as it may find expedient, and to modify the requirements of any of its orders or rules or regulations in respect to any matters described in this section.

Amended by Chapter 170, 1996 General Session

54-3-3 Changes by utilities in schedules -- Notice.

Unless the commission otherwise orders, no change shall be made by any public utility in any rate, fare, toll, rental, charge or classification, or in any rule, regulation or contract relating to or affecting any rate, toll, fare, rental, charge, classification or service, or in any privilege or facility, except after 30 days' notice to the commission and to the public as herein provided. Such notice shall be given by filing with the commission, and keeping open for public inspection, new schedules stating plainly the change or changes to be made in the schedule or schedules then in force, and the time when the change or changes will go into effect. The commission for good cause shown may allow changes, without requiring the 30 days' notice herein provided for, by an

order specifying the changes so to be made, the time when they shall take effect and the manner in which they shall be filed and published. When any change is proposed in any rate, fare, toll, rental, charge or classification, or in any form of contract or agreement, or in any rule, regulation or contract relating to or affecting any rate, toll, fare, rental, charge, classification or service, or in any privilege or facility, attention shall be directed to such change on the schedule filed with the commission by some character to be designated by the commission immediately preceding or following the item.

No Change Since 1953

54-3-4 Joint tariffs.

The names of the several public utilities which are parties to any joint tariff, rate, fare, toll, contract, classification or charge shall be specified in the schedule or schedules showing the same. Unless otherwise ordered by the commission, a schedule showing such joint tariff, rate, toll, fare, contract, classification or charge need be filed with the commission by only one of the parties to it, provided there is also filed with the commission, in such form as the commission may require, a concurrence in such joint tariff, rate, toll, fare, contract, classification or charge by each of the other parties thereto.

No Change Since 1953

54-3-7 Charges not to vary from schedules -- Refunds and rebates forbidden -- Exceptions.

Except as provided in this chapter or Chapter 8b, Public Telecommunications Law, no public utility shall charge, demand, collect or receive a greater or less or different compensation for any product or commodity furnished or to be furnished, or for any service rendered or to be rendered, than the rates, tolls, rentals and charges applicable to such products or commodity or service as specified in its schedules on file and in effect at the time; nor shall any such public utility refund or remit, directly or indirectly, in any manner or by any device, any portion of the rates, tolls, rentals and charges so specified; nor extend to any person any form of contract or agreement, or any rule or regulation, or any facility or privilege except such as are regularly and uniformly extended to all corporations and persons; provided, that the commission may, by rule or order, establish such exceptions from the operation of this prohibition as it may consider just and reasonable as to any public utility.

Amended by Chapter 5, 2005 General Session

54-3-8 Preferences forbidden -- Power of commission to determine facts -- Applicability of section.

- (1) Except as provided in Chapter 8b, Public Telecommunications Law, a public utility may not:
 - (a) as to rates, charges, service, facilities or in any other respect, make or grant any preference or advantage to any person, or subject any person to any prejudice or disadvantage; and
 - (b) establish or maintain any unreasonable difference as to rates, charges, service or facilities, or in any other respect, either as between localities or as between classes of service.
- (2) The commission shall have power to determine any question of fact arising under this section.
- (3) This section does not apply to, and the commission may not enforce this chapter concerning, a schedule, classification, rate, price, charge, fare, toll, rental, rule, service, facility, or contract of an entity described in Subsection 54-2-1(7)(b)(iii) or (iv), (17), or (19)(i), or if the electricity is

consumed by an eligible customer for the eligible customer's own use or the use of the eligible customer's tenant or affiliate.

Amended by Chapter 381, 2014 General Session

54-3-8.5 Rate on electricity for agricultural irrigation or drainage.

The commission in approving any rate applicable to customers who use electric power for agricultural irrigation or soil drainage purposes which includes a demand or power charge as a separate charge shall take into consideration the productive utilization of agricultural water and electric energy.

Enacted by Chapter 249, 1983 General Session

54-3-9 Sliding scale of charges -- Control by commission.

Nothing in this title shall be taken to prohibit a corporation or person engaged in the production, generation, transmission, or furnishing of heat, light, water or power, or telegraph or telephone service, from establishing a sliding scale of charges, provided a schedule showing such scale of charges shall first have been filed with the commission and the rates set out therein are approved by it. Nothing in this title shall be taken to prohibit any such corporation or person from entering into an arrangement for a fixed period for the automatic adjustment of charges for heat, light, water or power, or telegraph or telephone service, in relation to the dividends to be paid to stockholders of such corporation or the profit to be realized by such person, provided a schedule showing the scale of charges under such arrangement shall first have been filed with the commission and each rate set out therein is approved by it. Nothing in this section shall prevent the commission from revoking its approval at any time and fixing other rates and charges for the product or commodity or service, as authorized by this title.

No Change Since 1953

54-3-10 Interchange of business required.

Every telephone corporation and telegraph corporation operating in this state shall receive, transmit, and deliver, without discrimination or delay, the conversations and messages of every other telephone or telegraph corporation with whose line a physical connection may have been made.

Amended by Chapter 170, 1996 General Session

54-3-19 Long and short distance service -- Through and intermediate rates.

- (1) A telephone or telegraph corporation may not charge or receive any greater compensation, in the aggregate, for the transmission of any long distance message or conversation for a shorter than for a longer distance over the same line or route in the same direction within this state, the shorter being included within the longer distance; or charge any greater compensation for a through service than the aggregate of the intermediate rates or tolls; but this shall not be construed as authorizing any telephone or telegraph corporation to charge or receive as great a compensation for a shorter as for a longer distance.
- (2) Upon application to the commission any telegraph or telephone corporation may in special cases, after investigation, be authorized by the commission to charge less for a longer than

for a shorter distance service for the transmission of messages or conversations, and the commission may from time to time prescribe the extent to which the telegraph or telephone corporation may be relieved from the operation and requirements of this section.

Amended by Chapter 316, 1995 General Session

54-3-21 Commission to be furnished information and copies of records -- Hearings before commission to be public -- Privilege.

- (1) Every public utility shall furnish to the commission in such form and such detail as the commission shall prescribe all tabulations and computations and all other information required by it to carry into effect any of the provisions of this title, and shall make specific answers to all questions submitted by the commission.
- (2) Every public utility receiving from the commission any blanks with directions to fill the same shall cause the same to be properly filled so as to answer fully and correctly each question propounded therein; in case it is unable to answer any question, it shall give a good and sufficient reason for such failure.
- (3) Whenever required by the commission every public utility shall deliver to the commission copies of any or all maps, profiles, contracts, agreements, franchises, reports, books, accounts, papers and records in its possession or in any way relating to its property or affecting its business, and also a complete inventory of all its property in such form as the commission may direct.
- (4) Hearings or proceedings of the commission or of any commissioner shall be open to the public, and all records of all hearings or proceedings or orders, rules or investigations by the commission or any commissioner shall be at all times open to the public; provided, that any information furnished the commission by a public utility or by any officer, agent or employee of any public utility may be withheld from the public whenever and during such time as the commission may determine that it is for the best interests of the public to withhold such information. Any officer or employee of the commission who in violation of the provisions of this subsection divulges any such information is guilty of a misdemeanor.

No Change Since 1953

54-3-22 Required reports.

Every public utility shall furnish to the commission at such time and in such form as the commission may require a report in which the public utility shall specifically answer all questions propounded by the commission upon or concerning any matter upon which the commission may desire information. The commission shall have authority to require any public utility to file monthly reports of earnings and expenses, and to file periodical or special, or both periodical and special, reports concerning any matter about which the commission is authorized to inquire or to keep itself informed or which it is required to enforce. All reports shall be under oath when required by the commission.

No Change Since 1953

54-3-23 Commission's orders must be obeyed.

Every public utility shall obey and comply with each and every requirement of every order, decision, direction, rule or regulation made or prescribed by the commission in the matters herein specified, or in any other matter in any way relating to or affecting its business as a public utility,

and shall do everything necessary or proper in order to secure compliance with and observance of every such order, decision, direction, rule or regulation by all of its officers, agents and employees.

No Change Since 1953

54-3-24 Hostage situation -- Telephone communication prevention.

The supervising law enforcement official having jurisdiction in a geographical area where hostages are held, who has probable cause to believe that the holder of one or more hostages is committing a crime, may order a previously designated telephone company security employee to arrange to cut, reroute or divert telephone lines that serve the area in which the hostages are being held, in an emergency, for the purpose of preventing telephone communications by the holder of the hostages with any person other than a peace officer or person authorized by a peace officer.

The serving telephone company within the geographical area of the law enforcement unit shall designate a telephone company security official and an alternate to provide all required assistance to law enforcement officials to carry out the purpose of this section. Good faith reliance on an order given by a supervising law enforcement official shall constitute a complete defense to any action brought for conduct allowed under this section.

Enacted by Chapter 217, 1981 General Session

54-3-26 Retention of unclaimed capital credits by electric and telephone cooperatives -- Use of retained money -- Reporting requirements.

(1) As used in this section:

(a) "Cooperative" means a:

- (i) distribution electrical cooperative, as defined in Section 54-2-1, that is incorporated in the state; or
- (ii) telephone cooperative, as defined in Section 54-2-1, that is incorporated in the state.

(b) "Unclaimed capital credit" means a capital credit issued by a cooperative to the cooperative's customer that is unclaimed on the last day of the year three years after the year in which the credit was issued.

(2) A cooperative shall retain an unclaimed capital credit.

(3) A cooperative shall use the proceeds of a retained unclaimed capital credit to:

- (a) pay all or a portion of a low-income individual's utility bills;
- (b) provide scholarships to graduating high school seniors in the area where the cooperative provides service; or
- (c) provide financial assistance to, in the area where the cooperative provides service:
 - (i) a school;
 - (ii) a non-profit organization; or
 - (iii) a community organization.

(4) A cooperative shall establish criteria for recipients of the financial assistance described in this section that are based on:

- (a) a recipient's financial or other needs; and
- (b) the recipient community's interests.

(5) A cooperative shall submit a report, before November 1 of each year, to the Public Service Commission that describes:

- (a) the amount of unclaimed capital credits retained by the cooperative;
- (b) the amount and recipients of financial assistance disbursed under this section; and

- (c) the criteria used by the cooperative to determine the recipients and amount of financial assistance disbursed under this section.

Amended by Chapter 315, 2016 General Session

54-3-27 Public utility easement.

- (1) As used in this section:
 - (a) "Protected utility easement" means a recorded easement or right-of-way:
 - (i) for the use and installation of a utility facility; and
 - (ii) the ownership of which a gas corporation, electric corporation, or telephone corporation acquires and holds by any lawful means.
 - (b) "Public utility easement" means the area on a recorded plat map or other recorded document that is dedicated to the use and installation of public utility facilities.
- (2)
 - (a) A public utility easement provides a public utility with:
 - (i) the right to install, maintain, operate, repair, remove, replace, or relocate public utility facilities; and
 - (ii) the rights of ingress and egress within the public utility easement for public utility employees, contractors, and agents.
 - (b) Notwithstanding Subsection (3), a public utility shall restore or repair, at the expense of the public utility, any fence, grass, soil, shrubbery, bushes, flowers, other low level vegetation, sprinkler system, irrigation system, gravel, flat concrete, or asphalt damaged or displaced from the exercise of the easement rights described in Subsection (2)(a).
- (3) Except as provided in Subsection (2)(b), if a property owner places improvements to land that interfere with the easement rights described in Subsection (2)(a), the property owner shall bear the risk of loss or damage to those improvements resulting from the exercise of the easement rights described in Subsection (2)(a).
- (4)
 - (a) Except as provided in Subsection (4)(b), a public utility easement is nonexclusive and may be used by more than one public utility.
 - (b) Notwithstanding Subsection (4)(a), a public utility may not:
 - (i) interfere with any facility of another public utility within the public utility easement; or
 - (ii) infringe on the legally required distances of separation between public utility facilities required by federal, state, or local law.
- (5) A subdivision plat that includes a public utility easement may not be approved by a county or municipality unless the subdivider has provided the county or municipality proof that the subdivider has, as a courtesy, previously notified each public utility that is anticipated to provide service to the subdivision.
- (6) A person may not acquire, whether by adverse possession, prescription, acquiescence, or otherwise, any right, title, or interest in a public utility easement or protected utility easement that is adverse to or interferes with a public utility's full use of the easement for the purposes for which the easement was created.
- (7) A gas corporation's, electric corporation's, or telephone corporation's failure to possess, occupy, or use a protected utility easement does not diminish or extinguish any right that the gas corporation, electric corporation, or telephone corporation has under the easement.
- (8) Nothing in this section may be construed to affect the right of a condemnor to condemn a public utility easement as provided by law.

Amended by Chapter 245, 2009 General Session

54-3-28 Notice required of certain public utilities before preparing or amending a long-range plan or acquiring certain property.

(1) As used in this section:

(a)

(i) "Affected entity" means each county, municipality, local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, special service district, school district, interlocal cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, and specified public utility:

(A) whose services or facilities are likely to require expansion or significant modification because of expected uses of land under a proposed long-range plan or under proposed amendments to a long-range plan; or

(B) that has filed with the specified public utility a copy of the general or long-range plan of the county, municipality, local district, special service district, school district, interlocal cooperation entity, or specified public utility.

(ii) "Affected entity" does not include the specified public utility that is required under Subsection (2) to provide notice.

(b) "Specified public utility" means an electrical corporation, gas corporation, or telephone corporation, as those terms are defined in Section 54-2-1.

(2)

(a) If a specified public utility prepares a long-range plan regarding its facilities proposed for the future in a county of the first or second class or amends an already existing long-range plan, the specified public utility shall, before preparing a long-range plan or amendments to an existing long-range plan, provide written notice, as provided in this section, of its intent to prepare a long-range plan or to amend an existing long-range plan.

(b) Each notice under Subsection (2) shall:

(i) indicate that the specified public utility intends to prepare a long-range plan or to amend a long-range plan, as the case may be;

(ii) describe or provide a map of the geographic area that will be affected by the long-range plan or amendments to a long-range plan;

(iii) be sent to:

(A) each county in whose unincorporated area and each municipality in whose boundaries is located the land on which the proposed long-range plan or amendments to a long-range plan are expected to indicate that the proposed facilities will be located;

(B) each affected entity;

(C) the Automated Geographic Reference Center created in Section 63F-1-506;

(D) each association of governments, established pursuant to an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, of which a county or municipality described in Subsection (2)(b)(iii)(A) is a member; and

(E) the state planning coordinator appointed under Section 63J-4-202;

(iv) with respect to the notice to counties and municipalities described in Subsection (2)(b)(iii) (A) and affected entities, invite them to provide information for the specified public utility to consider in the process of preparing, adopting, and implementing the long-range plan or amendments to a long-range plan concerning:

(A) impacts that the use of land proposed in the proposed long-range plan or amendments to a long-range plan may have on the county, municipality, or affected entity; and

- (B) uses of land that the county, municipality, or affected entity is planning or considering that may conflict with the proposed long-range plan or amendments to a long-range plan; and
 - (v) include the address of an Internet website, if the specified public utility has one, and the name and telephone number of a person where more information can be obtained concerning the specified public utility's proposed long-range plan or amendments to a long-range plan.
- (3)
- (a) Except as provided in Subsection (3)(d), each specified public utility intending to acquire real property in a county of the first or second class for the purpose of expanding its infrastructure or other facilities used for providing the services that the specified public utility is authorized to provide shall provide written notice, as provided in this Subsection (3), of its intent to acquire the property if the intended use of the property is contrary to:
 - (i) the anticipated use of the property under the county or municipality's general plan; or
 - (ii) the property's current zoning designation.
 - (b) Each notice under Subsection (3)(a) shall:
 - (i) indicate that the specified public utility intends to acquire real property;
 - (ii) identify the real property; and
 - (iii) be sent to:
 - (A) each county in whose unincorporated area and each municipality in whose boundaries the property is located; and
 - (B) each affected entity.
 - (c) A notice under this Subsection (3) is a protected record as provided in Subsection 63G-2-305(8).
 - (d)
 - (i) The notice requirement of Subsection (3)(a) does not apply if the specified public utility previously provided notice under Subsection (2) identifying the general location within the municipality or unincorporated part of the county where the property to be acquired is located.
 - (ii) If a specified public utility is not required to comply with the notice requirement of Subsection (3)(a) because of application of Subsection (3)(d)(i), the specified public utility shall provide the notice specified in Subsection (3)(a) as soon as practicable after its acquisition of the real property.

Amended by Chapter 445, 2013 General Session

54-3-29 Removal, relocation, or alteration of utility facility in public highway construction or reconstruction -- Notice -- Cooperation.

- (1) As used in this section:
- (a) "Design-build" means a design-build transportation project for which a design-build transportation project contract is issued, within the meaning of Section 63G-6a-1402.
 - (b) "Municipality" is as defined in Section 10-1-104.
 - (c) "Political subdivision" means a:
 - (i) county; or
 - (ii) municipality.
 - (d) "Public agency" means an entity of state government or a political subdivision.
 - (e) "Public highway" means a highway, street, road, or alley constructed for public use in the state.

- (f) "Utility company" means a privately, cooperatively, or publicly owned utility, including a utility owned by a political subdivision, that provides service using a utility facility.
- (g) "Utility facility" means:
 - (i) a telecommunications, gas, electricity, cable television, water, sewer, or data facility;
 - (ii) a video transmission line;
 - (iii) a drainage and irrigation system; or
 - (iv) a facility similar to those listed in Subsections (1)(g)(i) through (iii) located in, on, along, across, over, through, or under any public highway.
- (2) If a public agency engages in or proposes to engage in a construction or reconstruction project on a public highway that may require the removal, relocation, or alteration of a utility facility, the public agency shall:
 - (a) contact an association, established under Title 54, Chapter 8a, Damage to Underground Utility Facilities, to identify each utility company that may have a utility facility in the area of the construction or reconstruction project;
 - (b) identify a utility company that has an above-ground utility facility in the area of the proposed construction or reconstruction project; and
 - (c) electronically notify each utility company identified in accordance with Subsections (2)(a) and (b).
- (3) The notice required by Subsection (2)(c) shall:
 - (a) be made as early as practicable and at least 30 days:
 - (i) before the preliminary design or project development meeting;
 - (ii) before issuance of a request for proposal for a design-build project; or
 - (iii) after a change in scope of a design-build project;
 - (b) include:
 - (i) information concerning the proposed project design;
 - (ii) the proposed date of a required removal, relocation, or alteration of a utility facility;
 - (iii) the federal identifying project number, if applicable; and
 - (c) advise the utility company if the proposed project may qualify for aid for the utility company's expense in removing, relocating, or altering a utility facility.
- (4) A public agency shall permit a utility company notified under Subsection (2) to participate in the preliminary design or project development meeting, or similar meeting at which the project design is addressed.
- (5)
 - (a) A public agency shall, not less than 30 days after providing notice under Subsection (2) to each utility company, provide the utility company an opportunity to meet with the public agency to allow the utility company to:
 - (i) review project plans;
 - (ii) understand the objectives and funding sources for the proposed project;
 - (iii) provide and discuss recommendations to the public agency that may reasonably eliminate or minimize utility removal, relocation, or alteration costs, limit the disruption of utility company services, or eliminate or reduce the need for present or future utility facility removal, relocation, or alteration; and
 - (iv) provide reasonable schedules to enable coordination of the construction project and removal, relocation, or alteration of a utility facility.
 - (b) If a public agency provides a utility company with reasonable opportunities to meet in accordance with Subsection (5)(a), the utility company's failure to meet does not affect the public agency's ability to proceed with the project.

- (6) While recognizing the essential goals and objectives of the public highway agency in proceeding with and completing a project, the parties shall use their best efforts to find ways to:
 - (a) eliminate the cost to the utility of relocation of the utility facilities; or
 - (b) if elimination of the costs is not feasible, minimize the relocation costs to the extent reasonably possible.
- (7) A utility company notified under Subsection (2) shall coordinate with the public agency concerning the utility facility removal, relocation, or alteration, including the scheduling of the utility facility removal, relocation, or alteration.
- (8) A public agency and a utility company may address the removal, relocation, or alteration of a utility facility in relation to a construction or reconstruction project on a public highway in a franchise agreement in lieu of this section, if the public agency is otherwise permitted to enter into the franchise agreement.
- (9) This chapter does not affect a public agency's authority over a public right-of-way, including any rule, ordinance, order to relocate a utility as provided in Section 72-6-116, or other valid provision governing the use of the public right-of-way.

Amended by Chapter 347, 2012 General Session

54-3-30 Electric utility service within a provider municipality -- Electrical corporation prohibited as provider -- Exceptions -- Notice and agreement -- Transfer of customer.

- (1) This section applies to an electrical corporation that intends to provide electric service to a customer:
 - (a) who is located within the municipal boundary of a municipality that provides electric service; and
 - (b) who is not described in Subsection 54-3-31(2).
- (2)
 - (a) If an electrical corporation is authorized by the commission to provide electric service to a customer in an area adjacent to a municipality, and the municipality provides electric service to a customer located within its municipal boundary, the electrical corporation may not provide electric service to a customer within the municipal boundary unless:
 - (i) the electrical corporation has entered into a written agreement with the municipality authorizing the electrical corporation to provide electric service:
 - (A) to a specified customer or to customers located within a specified area within the municipal boundary; and
 - (B) in accordance with the terms and conditions of the electrical corporation's tariffs and regulations approved by the commission, or approved by the governing board for an electrical cooperative that meets the requirements of Subsection 54-7-12(7); and
 - (ii)
 - (A) except as provided in Subsection (2)(a)(ii)(B), the commission approves the agreement in accordance with Section 54-4-40; or
 - (B) for an electrical cooperative that meets the requirements of Subsection 54-7-12(7), the governing board of the electrical cooperative approves the agreement.
 - (b) The municipality or the electrical corporation may terminate the agreement for the provision of electric service if the commission imposes a condition authorized in Section 54-4-40 that is a material change to the agreement.
- (3) An electrical corporation that enters into an agreement described in Subsection (2)(a) shall transfer service to a customer described in Subsection (2):
 - (a) at the conclusion of a term specified in the agreement; or

- (b) upon termination of the agreement by the electrical corporation in accordance with Subsection (4).
- (4) Unless otherwise agreed in writing by the electrical corporation and the municipality, the electrical corporation may terminate an agreement entered into in accordance with Subsection (2)(a) by giving written notice of termination to the municipality:
 - (a) no earlier than two years before the day of termination; or
 - (b) within a period of time shorter than two years if otherwise agreed to with the municipality.
- (5) Upon termination of an agreement in accordance with Subsection (3)(a), (3)(b), or (4):
 - (a)
 - (i) the electrical corporation shall transfer the electric service customer to the municipality; and
 - (ii) the municipality shall provide electric service to the customer; and
 - (b) the electrical corporation shall transfer a facility in accordance with and for the value as provided in Section 10-2-421.
- (6) This section may not be construed to modify or terminate any written franchise agreement or other agreement that expressly provides for electric service by an electrical corporation to a customer within a municipality that was entered into between an electrical corporation and a municipality on or before June 15, 2013.

Amended by Chapter 55, 2014 General Session

54-3-31 Electric utility service within a provider municipality -- Electrical corporation authorized as continuing provider for service provided on or before June 15, 2013 -- Notice of service and agreement -- Transfer of customer.

- (1) This section applies to an electrical corporation that:
 - (a)
 - (i) provides electric service to a customer on or before June 15, 2013, within the municipal boundary of a municipality that provides electric service; or
 - (ii) provides electric service to a customer within an area:
 - (A) established by an agreement dated on or before June 15, 2013, with a municipality; and
 - (B) within the municipal boundary of a municipality that provides electric service; and
 - (b) intends to continue providing service to that customer.
- (2) Notwithstanding Section 54-3-30, if an electrical corporation provides electric service to a customer as described in Subsection (1), and the municipality provides electric service to another customer within its municipal boundary, the electrical corporation may continue to provide electric service to the customer within the municipality's boundary after the termination of, or in the absence of, a written agreement, if:
 - (a) the electrical corporation provides, on or before December 15, 2013, the municipality with an accurate and complete verified written notice, in accordance with Subsection (3), identifying each customer within the municipality served by the electrical corporation on or before June 15, 2013;
 - (b) the electrical corporation enters into a written agreement with the municipality:
 - (i)
 - (A) prior to the termination of any prior written agreement; or
 - (B) in the absence of a written agreement; and
 - (ii) no later than June 15, 2014; and
 - (c)
 - (i) except as provided in Subsection (2)(c)(ii), the commission approves the agreement in accordance with Section 54-4-40; or

- (ii) for an electrical cooperative that meets the requirements of Subsection 54-7-12(7), the governing board of the electrical cooperative approves the agreement.
- (3) The written notice provided in accordance with Subsection (2)(a) shall include for each customer:
 - (a) the customer's meter number;
 - (b) the location of the customer's meter by street address, global positioning system coordinates, metes and bounds description, or other similar method of meter location;
 - (c) the customer's class of service; and
 - (d) a representation that the customer was receiving service from the electrical corporation on or before June 15, 2013.
- (4) The agreement entered into in accordance with Subsection (2) shall require the following:
 - (a) The electrical corporation is the exclusive electric service provider to a customer identified in the notice described in Subsection (2)(a) unless the municipality and electrical corporation subsequently agree, in writing, that the municipality may provide electric service to the identified customer.
 - (b) If a customer who is located within the municipal boundary and who is not identified in Subsection (2)(a) requests service after June 15, 2013, from the electrical corporation, the electrical corporation may not provide that customer electric service unless the electrical corporation subsequently submits a request to and enters into a written agreement with the municipality in accordance with Section 54-3-30.
- (5)
 - (a) Unless otherwise agreed in writing by the electrical corporation and the municipality, the electrical corporation may terminate an agreement entered into in accordance with Subsection (2)(b) by giving written notice of termination to the municipality:
 - (i) no earlier than two years before the day of termination; or
 - (ii) within a period of time shorter than two years if otherwise agreed to with the municipality.
 - (b) Upon termination of an agreement in accordance with Subsection (5)(a):
 - (i)
 - (A) the electrical corporation shall transfer an electric service customer located within the municipality to the municipality; and
 - (B) the municipality shall provide electric service to the customer; and
 - (ii) the electrical corporation shall transfer a facility in accordance with and for the value as provided in Section 10-2-421.
- (6) This section may not be construed to modify or terminate any written franchise agreement or other agreement that expressly provides for electric service by an electrical corporation to a customer within a municipality that was entered into between an electrical corporation and a municipality on or before June 15, 2013.

Amended by Chapter 55, 2014 General Session

Amended by Chapter 189, 2014 General Session

54-3-32 Public utility duties -- Procedure to transfer service to a nonutility energy supplier.

- (1) A transmission provider shall offer to an eligible customer available transmission service under the transmission provider's applicable Federal Energy Regulatory Commission approved open access transmission tariff.
- (2) Notwithstanding Section 54-3-1, and except for transmission service required to be offered under Subsection (1), a public utility is not required to furnish or provide electric service to an

- eligible customer if the eligible customer has transferred service to a nonutility energy supplier in accordance with this section.
- (3) An eligible customer may initiate the transfer of service to a nonutility energy supplier by:
- (a) providing written notice to the public utility that provides electric service to the eligible customer:
 - (i) no later than 18 months before the date the eligible customer intends to transfer service to the nonutility energy supplier; and
 - (ii) stating:
 - (A) that the eligible customer intends to receive service from the nonutility energy supplier; and
 - (B) the date on which the eligible customer intends to commence receiving service from the nonutility energy supplier; and
 - (b) filing a written application with the public utility's transmission provider in accordance with the transmission provider's approved Federal Energy Regulatory Commission open access transmission tariff no later than 240 days before the intended date of transfer of service described in Subsection (3)(a)(ii).
- (4)
- (a) Subject to Subsection (4)(c), an eligible customer shall provide written reports to the commission and the public utility updating any change in the intended date of transfer of service described in Subsection (3)(a)(ii):
 - (i) beginning nine months prior to the intended date of transfer of service described in Subsection (3)(a)(ii); and
 - (ii) no less frequently than every three months after the first written report is submitted in accordance with Subsection (4)(a)(i) until the sooner of:
 - (A) the date the notice described in Subsection (3)(a) is withdrawn in accordance with this section; or
 - (B) the date the eligible customer's service is transferred to the nonutility energy supplier.
 - (b) An eligible customer:
 - (i) may withdraw the notice described in Subsection (3)(a) at any time prior to transferring service to a nonutility energy supplier; or
 - (ii) subject to Subsection (4)(c), may delay the intended date of transfer of service described in Subsection (3)(a)(ii).
 - (c) Subject to Subsection (4)(d), the notice described in Subsection (3)(a) is considered to be withdrawn if a transfer of service under this section does not occur before the earlier of:
 - (i) December 31, 2020; or
 - (ii) 18 months after the intended date of transfer of service described in Subsection (3)(a)(ii).
 - (d) A time period provided in Subsection (4)(c) is tolled during any period of delay in a transfer of service to a nonutility energy supplier if the delay is solely attributable to the public utility, the public utility's transmission provider, or a contractor of the public utility or the public utility's transmission provider, in fulfilling the public utility's or the public utility's transmission provider's obligations under relevant law.
- (5) An eligible customer that transfers service to a nonutility energy supplier shall pay, or receive credit for:
- (a) any amounts due to the public utility for electric service provided to the eligible customer in accordance with a tariff or the eligible customer's contract for service;
 - (b) all balancing account costs, major plant addition costs, and any other surcharges or credits:
 - (i) attributable to the service provided to the eligible customer; and
 - (ii) incurred prior to the eligible customer's transfer of service to the nonutility energy supplier;

- (c) all costs of metering, communication, and other facilities or equipment necessary to transfer the eligible customer's service to the nonutility energy supplier;
 - (d) all costs of transmission and ancillary services necessary for the eligible customer to receive service from the nonutility energy supplier; and
 - (e) any costs assessed to the eligible customer in accordance with Subsection (6).
- (6)
- (a) The Division of Public Utilities shall file a petition with the commission as provided in this section:
 - (i) no earlier than 12 months but no later than eight months before the later of:
 - (A) the intended date of transfer of service described in Subsection (3)(a)(ii); or
 - (B) if the eligible customer updates a change in the intended date of transfer of service in accordance with Subsection (4), the intended date of transfer of service stated in the written report described in Subsection (4); or
 - (ii) at any time earlier than the time period described in Subsection (6)(a)(i) if agreed to by the public utility, the Division of Public Utilities, the Office of Consumer Services, and the eligible customer.
 - (b) A petition under Subsection (6)(a) shall seek a determination by the commission of whether the eligible customer's intended transfer of service to a nonutility energy supplier will result in:
 - (i) costs or credits allocated to Utah under any interjurisdictional cost allocation methodology the commission reasonably expects to be in effect as of:
 - (A) the intended date of transfer of service described in Subsection (3)(a)(ii); or
 - (B) if the eligible customer updates a change in the intended date of transfer of service in accordance with Subsection (4), the intended date of transfer of service stated in the written report described in Subsection (4);
 - (ii)
 - (A) costs of facilities used to serve the eligible customer if the costs will not be recovered from the eligible customer and the facilities will not be used by other customers as a direct result of the eligible customer transferring service to a nonutility energy supplier; and
 - (B) any credits to offset the costs of facilities described in Subsection (6)(b)(ii)(A); and
 - (iii) any other costs to the public utility or to other customers of the public utility.
 - (c) In making its determination under Subsection (6)(b), the commission may consider:
 - (i) the benefits from resources, the costs of which are attributable to the eligible customer's load;
 - (ii) the cost of resources attributable to the eligible customer's load compared to the cost of new resources;
 - (iii) other credits and public interest considerations related to the eligible customer; and
 - (iv) any other issue raised by a party to the proceeding or any other issue the commission determines to be relevant.
 - (d) If the eligible customer's load was not substantially offset by the eligible customer's generation in the public utility's load forecast used in the public utility's 2013 integrated resource plan, the commission shall require the eligible customer to pay to the public utility, for the benefit of Utah customers, any costs described in Subsection (6)(b) the commission orders the eligible customer to pay.
 - (e) If the eligible customer's load was substantially offset by the eligible customer's generation in the public utility's load forecast used in the public utility's 2013 integrated resource plan, the commission, in its discretion, based on substantial evidence and taking into consideration the public interest, shall determine the reasonable amount:
 - (i)

- (A) the eligible customer is required to pay to the public utility, for the benefit of Utah customers, for the costs the commission determines in accordance with Subsection (6)(b)(i); and
 - (B) the public utility is required to pay to the eligible customer, at a cost to be recovered from Utah customers, for any credits the commission determines in accordance with Subsection (6)(b)(i);
 - (ii) the following are required to pay to the public utility, for the costs or credits the commission determines in accordance with Subsection (6)(b)(ii):
 - (A) the eligible customer;
 - (B) other customers of the public utility; or
 - (C) the eligible customer and other customers of the public utility; and
 - (iii) the other customers of the public utility are required to pay to the public utility, for any costs the commission determines in accordance with Subsection (6)(b)(iii).
- (f)
- (i) The commission shall issue a decision on the petition filed in accordance with Subsection (6)(a) no later than 180 days after the Division of Public Utilities files the petition.
 - (ii) If the commission does not issue a decision within the time period required by Subsection (6)(f)(i), the commission shall allow the public utility to recover costs the commission determines in accordance with Subsection (6)(b), but may not impose any of those costs on the eligible customer.
- (7) A public utility and an eligible customer may agree in writing to waive a time period described in Subsection (4) as necessary to facilitate the eligible customer to receive service from a nonutility energy supplier.
- (8)
- (a) Subject to Subsection (8)(b), an eligible customer shall arrange for the installation of any facilities and equipment necessary for the eligible customer to receive service from a nonutility energy supplier:
 - (i) at the cost of the eligible customer; and
 - (ii) in compliance with the public utility's applicable equipment standards and industry codes.
 - (b) The facilities and equipment described in Subsection (8)(a) may be installed by:
 - (i) the public utility;
 - (ii) the nonutility energy supplier; or
 - (iii) a third party contractor.
- (9) An eligible customer may commence service from a nonutility energy supplier if:
- (a) the eligible customer makes the payments described in Subsection (5);
 - (b) the eligible customer meets the requirements of Subsection (3);
 - (c) the eligible customer, or a designee of the eligible customer, enters into any necessary agreements for:
 - (i) the public utility's transmission provider to provide transmission service; and
 - (ii) the nonutility energy supplier to provide service;
 - (d) the installation described in Subsection (8) is completed; and
 - (e) the notice described in Subsection (3)(a) is not considered to be withdrawn under Subsection (4).
- (10)
- (a) If an eligible customer that has been receiving electricity from a nonutility energy supplier gives the public utility and the commission at least 36 months' prior written notice of the eligible customer's intention to reinstate electric service from the public utility, the public utility shall reinstate electric service to the eligible customer:

- (i) under substantially the same terms as a new customer;
- (ii) beginning 36 months after the date the public utility receives the written notice; and
- (iii)
 - (A) at rates stated in the public utility's applicable rate schedule; or
 - (B) at a special contract rate agreed upon by the public utility and the eligible customer and approved by the commission.
- (b) The notice described in Subsection (10)(a) is irrevocable unless, during the time period beginning on the date the eligible customer provides the notice described in Subsection (10)(a) and ending on the date the public utility reinstates service, the public utility is no longer a vertically integrated utility providing electric service that includes generation and transmission.
- (c) If an eligible customer that has transferred service to a nonutility energy supplier elects to reinstate electric service from a public utility and receives the electric service from the public utility, the eligible customer may not transfer service to a nonutility energy supplier under this section.

Enacted by Chapter 381, 2014 General Session

54-3-33 Eligible customer energy supply contract.

- (1) The commission may approve a contract between a large-scale electric utility and a customer of a large-scale electric utility that is eligible to transfer electric service to a non-utility energy supplier under Section 54-3-32.
- (2) The commission shall exempt a customer that enters into a contract described in Subsection (1) from paying the costs recovered under Subsection 54-7-12.8(3), except the costs of the Utah solar incentive program included in Subsection 54-7-12.8(3)(b).
- (3) If an eligible customer that enters into a contract described in Subsection (1) has provided notice to the commission under Subsection 54-3-32(3), the notice is not considered withdrawn under Subsection 54-3-32(4)(c) by the customer entering into the contract.
- (4) Notwithstanding Subsection 54-3-32(4)(c), if the commission approves a contract under this section for an eligible customer that states a contract termination date that is after December 31, 2020, the notice described in Subsection 54-3-32(3)(a) is not considered to be withdrawn unless a transfer of service under Section 54-3-32 does not occur before the later of:
 - (a) the day three years after the termination date stated in the contract; or
 - (b) 18 months after the intended date of transfer of service described in Subsection 54-3-32(3)(a)
- (ii).

Enacted by Chapter 393, 2016 General Session